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CANTOR COLBURN LLP-IBM YORKTOWN  
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22nd Floor  
Hartford, CT 06103

EXAMINER
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ZELASKIEWICZ, CHRYSTINA E

ART UNIT	PAPER NUMBER
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3621

NOTIFICATION DATE	DELIVERY MODE
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05/26/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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<b>Office Action Summary</b>	<b>Application No.</b> 10/575,044	<b>Applicant(s)</b> DOLIVO ET AL.	
	<b>Examiner</b> CHRYSTINA ZELASKIEWICZ	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-25, 27-44 and 47-49 is/are pending in the application.
- 4a) Of the above claim(s) 27, 28, 30-44 and 47-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-25 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>May 12, 2010</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Election/Restrictions**

1. Applicant's election without traverse of Group I, claims 1-16, 18-25, and 29, in the reply filed on February 22, 2010 is acknowledged.
2. Claims 27-28, 30-44, and 47-49 are withdrawn from further consideration pursuant to 37 C.F.R. § 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 22, 2010.

### **Acknowledgements**

3. This action is in reply to the Amendment filed on October 19, 2009.
4. Claims 1-16, 18-25, 27-44, and 47-49 are pending.
5. Claims 27-28, 30-44, and 47-49 have been withdrawn.
6. Claims 1-16, 18-25, and 29 have been examined.

### **Information Disclosure Statement**

7. The Information Disclosure Statement filed on May 12, 2010 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

### **Specification**

8. In light of Applicant's cancellation of claims 26 and 46, the prior objection is moot.

### **Claim Objections**

9. In light of Applicant's cancellation of claim 45, the prior objection is moot.

### **Claim Rejections - 35 USC § 101**

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claims 1-16, 18-25, 29 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

12. Regarding claims 1-16, 18-25, and 29, based on Supreme Court precedent<sup>1</sup> and recent Federal Circuit decisions, a § 101 patent eligible process must (1) be tied to a particular machine (or apparatus); or (2) transform a particular article to a different state or thing. See *In re Bilski*, 545 F.3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008) (en banc). This is called the Machine-or-Transformation Test.

- a. To meet prong (1), the method steps should positively recite the machine to which it is tied. Alternatively, or to meet prong (2), the method steps should

positively recite the material that is being changed to a different state, or positively recite the subject matter that is being transformed. For example, a method claim that would *not* qualify as a patent eligible process because it fails both prongs of the Machine-or-Transformation Test would be a claim that recites purely mental steps.

b. In this particular case, the process claims fail prong (1) because the method steps of “*receiving... signed by the first entity*” and “*receiving... first and second entities*” in claim 1 are not tied to a specific machine since the method step could be performed by a human being. Finally, Examiner notes that the claims fail prong (2) because the method steps do not transform the underlying subject matter to a different state or thing.

c. An “electronic seal” could be interpreted as software; and thus, does not necessarily tie the claim limitations to a machine. Examiner notes that Applicant’s specification is void of a lexicographic definition of “electronic seal”, and does not show support for said seal to be a machine or hardware. Rather, the specification only states that an “electronic seal is understood in the Stromgren document as a tamper-indicating and identification device which records unauthorized opening of either the doors or the latches that secure the doors on a container” (specification p 2). However, Applicant does not incorporate by reference the Stromgren document into the specification.

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<sup>1</sup> *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

**Claim Rejections - 35 USC § 112, 2<sup>nd</sup> paragraph**

13. In light of Applicant's cancellation of claims 26 and 46, the former rejection is moot.

**Claim Rejections - 35 USC § 103**

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-16, 18-25, and 29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Girault et al. (US 5,768,379), in view of Arnold (US 6,456,716), and further in view of Yagesh (US 2004/0113783).

**Claim 1**

16. Girault discloses the following limitations:

d. which container control certificate is digitally signed (signature) by the first entity (user) (C2 L8 – C3 L20).

17. Girault does not disclose the following limitations:

e. an electronic container control certificate... second entity;

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- f. receiving in an electronic seal... container;
  - g. receiving in the electronic seal... associated with one of the first and second entities.
- 18. Arnold discloses the following limitations:
  - h. an electronic container control certificate (certificate, C3 L8-35) associated with a first entity (element A, C3 L8-35), the electronic container control certificate (certificate, C3 L8-35) comprises a cryptographic key (public key of authority to decrypt) associated to the second entity (element B, C3 L8-35).
- 19. Yagesh discloses the following limitations:
  - i. receiving in an electronic seal (container locking seal, P0017) associated with the container (freight shipping container, P0017);
  - j. receiving in the electronic seal (container locking seal, P0017) associated with the container (freight shipping container, P0017), geographic location data (route data of path, P0020) from a location recording device (state recorder in cargo transport vehicle, P0017) associated with one of the first and second entities.
- 20. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault, in view of Arnold, with Yagesh because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61); and 3) a need exists for an integrated threat identification, detection, and notification transportation security system (Yagesh P0015). Receiving geographic location data in

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the electronic seal will help to prompt an alarm condition if a vehicle does not correspond to its route data (Yagesh P0017-0020). Use of an electronic container control certificate will help to promote authentication (Arnold C2 L52-67).

#### Claim 2

21. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

- k. storing the container control certificate in a log (portable storage device) of the electronic seal (abstract, C2 L8 – C3 L20).

#### Claim 3

22. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

- l. verifying the signed container control certificate (signature) by a corresponding function (production algorithm) implemented in the electronic seal (abstract, C2 L8 – C3 L67).

#### Claim 4

23. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

- m. verifying the digital signature of the container control certificate by applying decrypt information (data element) stored in the log of the electronic



seal and delivered to the log by a previous entity of the transportation chain (abstract, C2 L8 – C3 L67).

Claim 5

24. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

n. the verification is considered to be failed (signature computed is not equal to signature read) if the signed container control certificate cannot be decrypted with the decrypt information stored in the log (verification algorithm) (abstract, C2 L8 – C4 L40).

Claim 6

25. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

o. a status of a container lock is subject to the result of the signature verification process (verification of the signature) (abstract, C2 L8 – C3 L20).

Claim 7

26. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Arnold discloses the following limitations:

p. the electronic seal issues a warning (error condition) if the verification of the signature fails (C13 L55-65).

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27. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault, in view of Arnold, with Yagesh because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61); and 3) a need exists for an integrated threat identification, detection, and notification transportation security system (Yagesh P0015). A seal to issue a warning if verification fails will help ensure secured access.

#### Claim 8

28. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

- q. the container control certificate (signature and data) is stored in the log (portable storage device) if the verification succeeds (signature computed is equal to signature read) (abstract, C2 L8 – C4 L40).

#### Claim 9

29. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

- r. the cryptographic key (verification key) associated to the second entity is used by the electronic seal for decrypting data expected to be received from the second entity (abstract, C2 L8 – C4 L40).

Claim 10

30. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

- s. the electronic seal is designed for controlling a lock of the container (building lock) (abstract, C6 L12-18).

Claim 11

31. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

- t. an asymmetric cryptographic key system (public key, RSA algorithm) is used for digitally signing the container control certificate (C4 L58 – C5 L22).

Claim 12

32. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

- u. a public - private key system (public key, RSA algorithm) is used for digitally signing the container control certificate (C4 L58 – C5 L22).

Claim 13

33. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

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- v. the container control certificate is signed using a private key (secret key) associated to the first entity (C3 L37-67).

34. It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute secret key for private key because both are kept private, or secret, for security reasons (C3 L61 – C4 L2).

#### Claim 14

35. Girault, in view of Arnold and Yagesh, discloses the limitations above. Furthermore, Arnold discloses the following limitations:

- w. the container control certificate is signed using a private key (private key) associated to the first entity and the decrypt information stored in the log comprises a public key (public key) of the first entity (C2 L52 - C3 L35).

36. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault, in view of Arnold, with Yagesh because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61); and 3) a need exists for an integrated threat identification, detection, and notification transportation security system (Yagesh P0015). A certificate signed using a private key will help ensure secured access.

#### Claim 15

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37. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Arnold discloses the following limitations:

- x. the first entity receives the cryptographic key associated to the second entity from a certificate authority (authority T) (C2 L52 - C3 L35).

38. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault, in view of Arnold, with Yagesh because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61); and 3) a need exists for an integrated threat identification, detection, and notification transportation security system (Yagesh P0015). Receiving a key from a certificate authority will help ensure secured access.

#### Claim 16

39. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

- y. the container control certificate comprises identification data (data element) for the container (abstract, C2 L8 – C4 L40).

40. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Girault to show the container control certificate comprises identification data for the container because properly identifying the container will help ensure only authorized users are accessing the container, and that proper time constraints are followed (C2 L8 – C4 L40).

Claim 18

41. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

- z. the location data is digitally signed (signature) by the associated entity (C2 L8 – C4 L40, C6 L5-11).

Claim 19

42. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

- aa. the signed location data is stored in a log of the electronic seal (electronic lock) (C2 L8 – C4 L40, C6 L5-11).

Claim 20

43. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

- bb. verifying the signed location data by a corresponding function (production algorithm) implemented in the electronic seal (C2 L8 – C4 L40, C6 L5-11).

Claim 21

44. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

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cc. verifying the digital signature of the location data by applying decrypt information (data element) stored in the log of the electronic seal and delivered to the log by a previous entity of the transportation chain (C2 L8 – C4 L40, C6 L5-11).

#### Claim 22

45. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

dd. the verification is considered to be failed (signature computed is not equal to signature read), if the signed location data cannot be decrypted with decrypt information stored in the log (verification algorithm) (abstract, C2 L8 – C4 L40).

#### Claim 23

46. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Girault discloses the following limitations:

ee. recording the location data in the log (portable storage device) of the electronic seal is subject to a result of the signature verification process (signature computed is equal to signature read) (abstract, C2 L8 – C4 L40).

#### Claim 24

47. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Arnold discloses the following limitations:

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ff. the electronic seal transmits container identification information (location information) to a location recording device associated to one of the entities (C24 L40-62, C26 L37-51).

48. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault, in view of Arnold, with Yagesh because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61); and 3) a need exists for an integrated threat identification, detection, and notification transportation security system (Yagesh P0015). A seal with identification information will help ensure secured access.

#### Claim 25

49. Girault, in view of Arnold and Yagesh, discloses the limitations above. Furthermore, Arnold discloses the following limitations:

gg. the transmitted container identification information is digitally signed (signed copy) by a second entity (C24 L40 - C25 L10).

50. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault, in view of Arnold, with Yagesh because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61); and 3) a need exists for an integrated threat identification, detection, and notification



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transportation security system (Yagesh P0015). Having the identification information digitally signed will help ensure secured access.

#### Claim 29

51. Girault, in view of Arnold and Yagesh, discloses the limitations above.

Furthermore, Arnold discloses the following limitations:

hh. a log for storing a cryptographic key associated to the certificate authority for decrypting information received from the certificate authority via the certificate authority interface (C14 L15-21).

52. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault, in view of Arnold, with Yagesh because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61); and 3) a need exists for an integrated threat identification, detection, and notification transportation security system (Yagesh P0015). A log for storing a key will help ensure secured access.

### **Response to Arguments**

53. Applicants argue that Girault and Arnold do not disclose transferring a certificate to a lock, wherein the certificate has a cryptographic key associated with a second entity as cited in claim 1 (Amendment p 12). Examiner disagrees.

ii. First, Applicants do not claim a “lock” in claim 1.

jj. Second, the combination of Girault, in view of Arnold and Yagesh, discloses a certificate with a cryptographic key associated with a second entity (see claim 1 above)

54. Applicants argue that Girault and Arnold do not disclose receiving in the electronic seal geographic location data from a location recording device as cited in claim 1 (Amendment p 12).

kk. This argument is moot in light of the new art above, Yagesh.

### **Claim Interpretation**

55. Examiner finds that because the examined claims recite neither “step for” nor “means for”, the examined claims fail Prong (A) as set forth in MPEP § 2181 I. Because all examined claims fail Prong (A), Examiner concludes that all examined claims do not invoke 35 U.S.C. 112, 6<sup>th</sup> paragraph. See also *Ex parte Miyazaki*, 89 USPQ2d 1207, 1215-16 (B.P.A.I. 2008) (precedential).

II. Should Applicants amend the claims to recite “means for”, Applicants are respectfully reminded that the specification must have proper antecedent basis for the claimed subject matter. See 37 C.F.R. § 1.75(d)(1), MPEP § 608.01(o), and MPEP § 2181 IV.

56. After careful review of the original specification and unless expressly noted otherwise by Examiner, Examiner concludes that Applicants are not their own lexicographer. See MPEP § 2111.01 IV.

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57. Examiner hereby adopts the following definitions under the broadest reasonable interpretation standard. In accordance with *In re Morris*, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997), Examiner points to these other sources to support his interpretation of the claims.<sup>2</sup> Additionally, these definitions are only a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

mm. **interface** “2 Software that enables a program to work with the user (the user interface, which can be a command-line interface, menu-driven, or a graphical user interface), with another program such as the operating system, or with the computer’s hardware.” Computer Dictionary, 3<sup>rd</sup> Edition, Microsoft Press, Redmond, WA, 1997.

nn. **log** “1 A record of transactions or activities that take place on a computer system.” Computer Dictionary, 3<sup>rd</sup> Edition, Microsoft Press, Redmond, WA, 1997.

oo. **unit** “(3) A software component that is not subdivided into other components.” IEEE Standard Computer Dictionary, The Institute of Electrical and Electronics Engineers, New York, NY, 1990.

58. Applicants are reminded that optional or conditional elements do not narrow the claims because they can always be omitted. See e.g. MPEP §2106 II C.: “Language that suggests or makes optional but does not require steps to be performed or does not

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<sup>2</sup> While most definitions are cited because these terms are found in the claims, Examiner may have provided additional definition(s) to help interpret words, phrases, or concepts found in the definitions themselves or in the prior art.

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limit a claim to a particular structure does not limit the scope of a claim or claim limitation. [Emphasis in original.]"; and *In re Johnston*, 435 F.3d 1381, 77 USPQ2d 1788, 1790 (Fed. Cir. 2006) ("As a matter of linguistic precision, optional elements do not narrow the claim because they can always be omitted."). For example, claim 5 states "failed *if* the signed container control certificate cannot be decrypted."

### Conclusion

59. Applicants' amendment filed on October 19, 2009 necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

60. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. § 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

61. Because this application is now final, Applicants are reminded of the USPTO's after final practice as discussed in MPEP §714.12 and §714.13 and that entry of amendments after final is *not* a matter of right. "The refusal of an examiner to enter an

amendment after final rejection of claims is a matter of discretion.” *In re Berger*, 279 F.3d 975, 984, 61 USPQ2d 1523, 1529 (Fed. Cir. 2002) (citations omitted). Furthermore, suggestions or examples of claim language provided by Examiner are just that—suggestions or examples—and do not constitute a formal requirement mandated by Examiner. Unless stated otherwise by an express indication that a claim is “allowed,” exemplary claim language provided by Examiner to overcome a particular rejection or to change claim interpretation has *not been addressed* with respect to other aspects of patentability (e.g. §101 patentable subject matter, §112, 1<sup>st</sup> paragraph written description and enablement, §112, 2<sup>nd</sup> paragraph indefiniteness, and §102 and §103, prior art). Therefore, any claim amendment submitted under 37 C.F.R. §1.116 that incorporates an Examiner suggestion or example or simply changes claim interpretation will nevertheless require further consideration and/or search and a patentability determination as noted above.

62. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to Chrystina Zelaskiewicz whose telephone number is 571.270.3940. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner’s supervisor, Andrew Fischer can be reached at 571.272.6779.

63. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see

<http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866.217.9197 (toll-free).

/Chrystina Zelaskiewicz/

Examiner, Art Unit 3621

May 17, 2010